

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 616
NEW ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

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118 AUTHORITY: Implementing Sections 5, 14.4, 21, and 22, and authorized by Section 27 of the
 119 Environmental Protection Act [415 ILCS 5/5, 14.4, 21, 22, 27].

120

121 SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992; amended in R89-
 122 14(C) at 16 Ill. Reg. 14676, effective September 11, 1992; amended in R92-20 at 17 Ill. Reg.
 123 1878, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. 6543, effective May 8,
 124 1997; amended in R18-26 at 47 Ill. Reg. _____, effective _____.

125

126 SUBPART A: GENERAL

127

128 **Section 616.101 Purpose**

129

This Part ~~specifies the~~prescribes requirements and standards for the protection of groundwater for certain types of new facilities or units located wholly or partially within a setback zone regulated by the Environmental Protection Act (Act) [415 ILCS 5] or within a regulated recharge area ~~underas delineated pursuant to~~ Section 17.4 of the ~~Illinois Environmental Protection Act (Act)~~[415 ILCS 5/17.4].

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part ~~are~~shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55].

~~"New Potential Primary Source" means:~~

~~A potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or~~

~~A potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or~~

~~A potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility.~~

~~(Section 3.59 of the Act)~~

~~"New Potential Route" means:~~

~~A potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or~~

~~A potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988.~~

~~(Section 3.58 of the Act)~~

~~"New Potential Secondary Source" means:~~

~~A potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988; or~~

~~A potential secondary source which expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or~~

~~A potential secondary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2 year period exceed 50% of the fixed capital cost of a comparable entirely new facility.~~

(Section 3.60 of the Act)

~~"Potential Primary Source" means any unit at a facility or site not currently subject to a removal or remedial action which:~~

~~Is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or~~

~~Is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or~~

~~Is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or~~

~~Stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances.~~

(Section 3.59 of the Act)

~~"Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.58 of the Act)~~

~~"Potential Secondary Source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source,~~

~~which:~~

~~Is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or~~

~~Stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or~~

~~Stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or~~

~~Stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or~~

~~Stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or~~

~~Is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act [225 ILCS 225].(Section 3.60 of the Act)~~

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.104 Exceptions to Prohibitions

Section 14.2 of the Act sets forth the process to obtain a waiver or exception from the setback requirements Sections 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a).

- a) ~~The owner of a new potential primary source or a potential secondary source may secure a waiver from the prohibitions specified in Section 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a) against construction or operation within the setback zone for a potable water supply well other than a community water supply. A written request for a waiver shall be made to the owner of the water well and the Agency. Such request shall identify the new or proposed potential source, shall generally describe the possible effect of such potential source upon the water well and any applicable technology based~~

~~control which will be utilized to minimize the potential for contamination, and shall state whether, and under what conditions, the requestor will provide an alternative potable water supply. Waiver may be granted by the owner of the water well no less than 90 days after receipt unless prior to such time the Agency notifies the well owner that it does not concur with the request. (Section 14.2(b) of the Act)~~

~~b) The Agency shall not concur with any such request which fails to accurately describe reasonably foreseeable effects of the potential source or potential route upon the water well or any applicable technology-based controls. Such notification by the Agency shall be in writing, and shall include a statement of reasons for the nonconcurrence. Waiver of the minimum setback zone shall extinguish the water well owner's rights under Section 6b of the Illinois Water Well Construction Code but shall not preclude enforcement of any law regarding water pollution. If the owner of the water well has not granted a waiver within 120 days after receipt of the request or the Agency has notified the owner that it does not concur with the request, the owner of a potential source or potential route may file a petition for an exception with the Board and the Agency pursuant to subsection (b) of this Section. (Section 14.2(b) of the Act)~~

~~c) No waiver under this Section is required where the potable water supply well is part of a private water system as defined in the Illinois Groundwater Protection Act, and the owner of such well will also be the owner of a new potential secondary source or a potential route. In such instances, a prohibition of 75 feet shall apply and the owner shall notify the Agency of the intended action so that the Agency may provide information regarding the potential hazards associated with location of a potential secondary source or potential route in close proximity to a potable water supply well. (Section 14.2(b) of the Act)~~

~~d) The Board may grant an exception from the setback requirements of this Section and Section 14.3 to the owner of a new potential primary source other than landfilling or land treating, or a new potential secondary source. The owner seeking an exception with respect to a community water supply well shall file a petition with the Board and the Agency. The owner seeking an exception with respect to a potable water supply well shall file a petition with the Board and the Agency, and set forth therein the circumstances under which a waiver has been sought but not obtained pursuant to subsection (a) of this Section. A petition shall be accompanied by proof that the owner of each potable water supply well for which setback requirements would be affected by the requested exception has been notified and been provided with a copy of the petition. A petition shall set forth such facts as may be required to support an exception, including a general description of the potential impacts of such potential source or potential route upon groundwaters and the affected water well, and an explanation of the~~

~~applicable technology based controls which will be utilized to minimize the potential for contamination of the potable water supply well. (Section 14.2(c) of the Act)~~

- e) ~~The Board shall grant an exception, whenever it is found upon presentation of adequate proof, that compliance with the setback requirements of this Section would pose an arbitrary and unreasonable hardship upon the petitioner, that the petitioner will utilize the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that the maximum feasible alternative setback will be utilized, and that the location of such potential source or potential route will not constitute a significant hazard to the potable water supply well. (Section 14.2(c) of the Act)~~
- f) ~~A decision made by the Board pursuant to this subsection shall constitute a final determination. (Section 14.2(c) of the Act)~~
- g) ~~The granting of an exception by the Board shall not extinguish the water well owner's rights under Section 6b of the Illinois Water Well Construction Code in instances where the owner has elected not to provide a waiver pursuant to subsection (a) of this Section. (Section 14.2(c) of the Act)~~

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.105 General Exceptions

- a) This Part does not apply to any facility or unit, or to the owner or operator of any facility or unit, for which:
 - 1) The owner or operator obtains certification of minimal hazard ~~under~~pursuant to Section 14.5 of the Act; or
 - 2) Alternate requirements are imposed in an adjusted standard proceeding or ~~in~~a site-specific rulemaking, ~~under~~pursuant to Title VII of the Act; or
 - 3) Alternate requirements are imposed in a regulated recharge area proceeding ~~under~~pursuant to Section 17.4 of the Act; or
 - 4) The owner or operator of the facility for storage and related handling of pesticides or fertilizers for ~~the purpose of~~ commercial application or at a central location for ~~the purpose of~~ distribution to retail sales outlets that has filed a written notice of intent ~~with the Department of Agriculture by January 1, 1993, or within 6 months after the date on which a maximum setback zone is established or~~ pursuant to Section 14.6 of the Act

a regulated recharge area regulation is adopted that affects such a facility; or has filed a written certification of intent ~~underpursuant~~ to Section 14.6 of the Act on the appropriate license or renewal application form submitted to the Department of Agriculture or other appropriate agency. [415 ILCS 5/14.6] (~~Section 14.6(a) of the Act~~). This exception ~~does~~shall not apply to those facilities that are not in compliance with the program requirements of ~~Sections~~subsections 14.6(b) and 14.6(c) of the Act.

- b) Nothing in this Section ~~limits~~shall limit the authority of the Board to impose requirements on any facility or unit within any portion of any setback zone or regulated recharge area in any adjusted standard proceeding, site-specific rulemaking, or ~~a~~-regulatory proceeding establishing the regulated recharge area.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section 616.202 Compliance Period

The compliance period is the active life of the unit, including closure and post-closure care periods.

- a) The active life begins when the unit first begins operation or one year after the date of first applicability, whichever occurs later, and ends when the post-closure care period ends.
- b) The post-closure care period for units other than pesticide storage and handling units subject to Subpart I and fertilizer storage and handling units subject to Subpart J is five years after closure, except as provided ~~in~~at Section 616.211(e).
- c) The post-closure care period for pesticide storage and handling units subject to Subpart I and for fertilizer storage and handling units subject to Subpart J is three years after closure, except as provided ~~in~~at Section 616.211(e).
- d) ~~Despite subsections~~Subsections (a), (b), and (c) ~~notwithstanding~~, no post-closure care period is required if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure, and no ongoing corrective action is required ~~underpursuant to~~ Section 616.211.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.203 Compliance With Groundwater Standards

The owner or operator ~~must~~shall comply with the groundwater standards.

- a) The term of compliance is the compliance period.
- b) Compliance ~~must~~shall be measured at the compliance point, or compliance points if more than one such point exists.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.205 Groundwater Monitoring Program

The owner or operator ~~must~~shall develop a groundwater monitoring program that consists of:

- a) Consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the unit. At a minimum, the program must include procedures and techniques for:
 - 1) Sample collection;
 - 2) Sample preservation and shipment;
 - 3) Analytical procedures; and
 - 4) Chain of custody control.
- b) Sampling and analytical methods that are appropriate for groundwater monitoring and that allow for detection and quantification of contaminants specified in this Subpart, and that are consistent with the sampling and analytical methods specified in 35 Ill. Adm. Code 620.
- c) ~~Determining~~A determination of the groundwater head elevation each time groundwater is sampled.
- d) ~~Determining~~A determination at least annually ~~of~~ the groundwater flow rate and direction.
- e) If the owner or operator determines that the groundwater monitoring program no longer satisfies the requirements of this Section, the owner or operator ~~must~~shall, within 90 days, make appropriate changes to the program. Conditions under which a groundwater monitoring program no longer satisfies the requirements of this Section include, ~~but are not limited to:~~

- 1) A Maximum Allowable Result (MAR) is exceeded in any monitoring well that is being used as a background monitoring well or that the owner or operator has previously determined to be hydraulically upgradient from the facility; or
- 2) A redetermination of groundwater flow rate and direction conducted ~~underpursuant to~~ subsection (d) shows that the existing monitoring system is not capable of assessing groundwater quality at the compliance points or points.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.206 Reporting

The owner or operator ~~must~~shall submit the results of all monitoring required ~~underpursuant to~~ this Subpart to the Agency within 60 days after ~~completion of~~ sampling is completed.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.207 Determining Background Values and Maximum Allowable Results ("MARs")

- a) The owner or operator ~~must~~shall, ~~by the start~~beginning no later than the beginning of operation of the unit and continuing for ~~a period of~~ at least one year, sample each monitoring well at least every two months and analyze each ~~such~~ sample according to the following program:
 - 1) For a unit subject to Subpart E (land treatment units), Subpart F (surface impoundments), Subpart K (road oil storage and handling units), or Subpart L (de-icing agent storage and handling units), ~~samples analysis~~ ~~must~~shall be analyzed for pH, specific conductance, total organic carbon, total organic halogen, and any other parameter that meets the following criteria:
 - A) Material containing ~~the~~such parameter is stored, treated, or disposed of at the unit; and
 - B) There is a groundwater standard for ~~the~~such parameter.
 - 2) For a unit subject to Subpart I for the storage and handling of pesticides, analysis ~~must~~shall be for each pesticide stored or handled at the unit.

- 474 3) For a unit subject to Subpart J for the storage and handling of fertilizer,
 475 ~~samples analysis must~~ shall be analyzed for pH, specific conductance, total
 476 organic carbon, nitrates as nitrogen, ammonia nitrogen, and ~~for~~ any other
 477 parameter that meets the following criteria:
 478
 479 A) Material containing ~~the~~ such parameter is stored or handled at the
 480 unit; and
 481
 482 B) There is a groundwater standard for ~~the~~ such parameter.
 483
 484 b) The results obtained under subsection (a) ~~must~~ shall be used to calculate the
 485 background mean, background standard deviation, and ~~the~~ Maximum Allowable
 486 Result (~~hereinafter referred to as "MAR"~~) for each parameter using the following
 487 procedures:
 488
 489 1) Results from all samples collected during the year must be used in the
 490 calculations unless the owner or operator demonstrates to the Agency that
 491 one or more of the results was due to error in sampling, analysis, or
 492 evaluation.
 493
 494 2) All calculations must be based on ~~a minimum of~~ at least six sample
 495 measurements per parameter per well.
 496
 497 3) If any measured value is equal to or greater than its PQL, or if any
 498 measured value is greater than its corresponding groundwater standard, the
 499 actual measured value must be used ~~to calculate~~ calculating the mean and
 500 standard deviation.
 501
 502 4) If any measured value is less than its PQL and less than its corresponding
 503 groundwater standard, the PQL rather than the measured value ~~must~~ is to
 504 be used in calculating the mean and standard deviation.
 505
 506 5) Except for pH, the MAR is the quantity equal to the measured mean value
 507 of the contaminant plus the product of the contaminant's standard
 508 deviation times the following constant:
 509

<u>Sample Size</u>	<u>Constant</u>
6	2.10
7	2.03
8	1.97
9	1.93
10	1.90
11	1.88

12	1.85
13	1.84
14	1.82

- 510
- 511 6) For pH, the upper limit for the MAR is the quantity equal to the measured
- 512 background mean pH plus the product of the calculated background
- 513 standard deviation of the samples times the constant tabulated in
- 514 subsection ~~(b)(a)~~(5).
- 515
- 516 7) For pH, the lower limit of the MAR is the quantity equal to the measured
- 517 background mean pH minus the product of the calculated background
- 518 standard deviation of the samples times the constant tabulated in
- 519 subsection ~~(b)(a)~~(5).
- 520

521 (Source: Amended at 47 Ill. Reg. _____, effective _____)

522

523 Section 616.208 Continued Sampling

524

525 Upon completion of the background sampling required ~~underpursuant to~~ Section 616.207, the

526 owner or operator ~~must~~shall sample each monitoring well for the duration of the compliance

527 period and analyze each sample, except as provided in Section 616.209, according to the

528 following program:

529

- 530 a) For a unit subject to Subpart E (land treatment units) or Subpart F (surface
- 531 impoundments), ~~samplesampling must~~shall be collected at least quarterly and
- 532 analyzed~~analysis shall be~~ for pH, specific conductance, total organic carbon, total
- 533 organic halogen, and any other parameter that meets the following criteria:
- 534
- 535 1) Material containing ~~the~~such parameter is stored, treated, or disposed of at
- 536 the unit; and
- 537
- 538 2) The Board has adopted a groundwater standard for ~~the~~such parameter.
- 539
- 540 b) For a unit subject to Subpart I for the storage and handling of pesticides,
- 541 ~~samplesampling must~~shall be collected at least quarterly, except as provided in
- 542 subsection (d), and analyzed~~analysis shall be~~ for ~~the~~ five specific pesticides or
- 543 five groups of ~~chemically similar~~chemically similar pesticides stored or handled
- 544 at the unit that are the most likely to enter into the groundwater from the unit and
- 545 that are the most toxic. The owner or operator ~~must~~shall choose the five specific
- 546 pesticides or five groups based upon the following criteria:
- 547
- 548 1) The volume of the pesticides stored or handled at the unit;
- 549

- 2) The leachability characteristics of the pesticides stored or handled at the unit;
 - 3) The toxicity characteristics of the pesticides stored or handled at the unit;
 - 4) The history of spillage of the pesticides stored or handled at the unit; and
 - 5) Any groundwater standards for the pesticides stored or handled at the unit.
- c) For a unit subject to Subpart J for the storage and handling of fertilizer, ~~samplesampling mustshall~~ be collected at least quarterly, except as provided in subsection (d), and ~~analyzedanalysis shall be~~ for pH, total organic carbon, nitrates as nitrogen, ammonia nitrogen, and specific conductance.
- d) ~~Despite subsections~~Subsections (b) and (c) ~~notwithstanding~~, for a unit subject to Subpart I for the storage and handling of pesticides or ~~for~~ a unit subject to Subpart J for the storage and handling of fertilizers, ~~samplesampling mustshall~~ be collected at least semi-annually ~~if provided that~~ all of the following conditions are met:
- 1) The unit is in compliance with the containment requirements of 8 Ill. Adm. Code 255; and
 - 2) There have been no detections within the preceding two years in any of the monitoring wells of any contaminant stored or handled at the facility or ~~of~~ any contaminant attributable to the operation of the unit.; ~~and~~
- e) For a unit subject to Subpart K for the storage and handling of road oils or subject to Subpart L for the storage and handling of de-icing agents, ~~samplesampling mustshall~~ be collected annually and ~~analyzedanalysis shall be~~ for pH, specific conductance, total organic carbon, and total organic halogen.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.209 Preventive Notification and Preventive Response

- a) Preventive notification is required for each well in which:
- 1) A MAR is ~~found to be~~ exceeded (except for pH); or
 - 2) There is a detection of any contaminant:
 - A) Required to be monitored under Section 616.207(a);

- 593
- 594 B) Listed under 35 Ill. Adm. Code 620.310(a)(3)(A) (except due to
- 595 natural causes and except for pH);
- 596
- 597 C) Denoted as a carcinogen under 35 Ill. Adm. Code 620.410(b); or
- 598
- 599 D) Subject to a standard under 35 Ill. Adm. Code 620.430 (except due
- 600 to natural causes).
- 601
- 602 b) Whenever preventive notification is required under subsection (a), the owner or
- 603 operator of the unit ~~must~~shall confirm the detection by resampling the monitoring
- 604 well or wells. This resampling ~~must~~shall be analyzed for each parameter found to
- 605 be present in the first sample and be performed within 30 days after the date on
- 606 which the first sample analyses are received. The owner or operator must provide
- 607 preventive notification of the results of the resampling analyses within 30 days
- 608 after the date on which those analyses are received, but no later than 90 days after
- 609 the results of the first sample are received.
- 610
- 611 c) If preventive notification is provided under subsection (b) by the owner or
- 612 operator and the applicable standard has not been exceeded, the Agency ~~must~~shall
- 613 determine whether the levels for each parameter as set forth in 35 Ill. Adm. Code
- 614 620.310(a)(3)(A) are exceeded. If an ~~exceedance~~exceedence is determined, the
- 615 Agency ~~must~~shall notify the owner or operator in writing regarding ~~the~~such
- 616 finding.
- 617
- 618 d) Within 60 days after receiving a notification from the Agency of its~~Upon receipt~~
- 619 ~~of a~~ finding that an exceedance has occurred, the owner or operator ~~must~~shall
- 620 submit to the Agency ~~within 60 days~~ a report that ~~includes, at a minimum, shall~~
- 621 ~~include~~ the degree and extent of contamination and the measures that are being
- 622 taken to minimize or eliminate ~~the~~this contamination, in ~~compliance~~accordance
- 623 with a prescribed schedule. The owner or operator may also provide a
- 624 demonstration that:
- 625
- 626 1) The contamination is the result of contaminants remaining in groundwater
- 627 from a prior release for which appropriate action was taken in
- 628 ~~compliance~~accordance with the laws and regulations in existence at the
- 629 time of the release;
- 630
- 631 2) The source of contamination is not due to the on-site release of
- 632 contaminants; or
- 633
- 634 3) The detection resulted from error in sampling analysis or evaluation.
- 635

- e) Based upon the report in subsection (d) as well as any other relevant information available to the Agency, the Agency ~~must~~shall provide a written response to the owner or operator that specifies either:
- 1) Concurrence with the preventive response being undertaken; or
 - 2) Non-concurrence with the preventive response being undertaken and a description of the inadequacies of such action.
- f) An owner or operator who receives a written response of concurrence ~~underpursuant to~~ subsection (e) ~~must~~shall provide periodic program reports to the Agency regarding the implementation of the preventive response.
- g) An owner or operator who receives a written response of non-concurrence ~~underpursuant to~~ subsection (e) ~~must, shall have~~ within 30 days after receiving the response, ~~to~~ correct the inadequacies and ~~to~~ resubmit the report to the Agency or ~~to~~ request a conference with the Agency. Within 30 days after receiving ~~Upon receipt of~~ a written request for ~~such a~~ conference, the Agency ~~must~~shall schedule and hold the conference ~~within 30 days~~. Following ~~the~~a conference, the Agency ~~must~~shall provide the owner or operator with a final determination regarding the adequacy of the preventive response.
- h) An owner or operator ~~is~~shall be responsible for implementing adequate preventive response as determined ~~underpursuant to~~ this Section.
- i) After completion of preventive response, the concentration of a ~~contaminant~~contamination listed in 35 Ill. Adm. Code 620.310(a)(3)(A) in groundwater may exceed 50 percent of the applicable numerical standard in 35 Ill. Adm. Code 620.Subpart D only if the following conditions are met:
- 1) The ~~exceedance~~exceedence has been minimized to the extent practicable;
 - 2) Beneficial use, as appropriate for the class of groundwater, has been assured; and
 - 3) Any threat to public health or the environment has been minimized.
- j) Nothing in this Section ~~limits~~shall in any way limit the authority of the State or the United States to require or perform any corrective action process.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.210 Corrective Action Program

Whenever any applicable groundwater standard under 35 Ill. Adm. Code 620.Subpart D is exceeded, an owner or operator ~~must~~shall be required to undertake the following corrective action:

- a) Notify the Agency of the need to undertake a corrective action program when submitting the groundwater monitoring results required ~~under~~pursuant to Section 616.206. The notification must indicate in which wells and for which parameters a groundwater standard was exceeded.
- b) Continue to sample and analyze according to ~~the provisions of~~ Section 616.208(a), except that:
 - 1) For ~~a unit~~all units subject to Subpart I for the storage and handling of pesticides, ~~samples~~the frequency of all such sampling must be collected quarterly until no measured values above the groundwater standard have been recorded for any parameter for two consecutive quarters.
 - 2) For a unit subject to Subpart J for the storage and handling of fertilizers, ~~samples~~sampling must be collected quarterly for the parameters ~~specified~~set forth in Section 616.207(a)(3) that are stored or handled at the unit until no measured values above the groundwater standard have been recorded for two consecutive quarters.
- c) If sample values above any groundwater standard are confirmed ~~under~~pursuant to Section 616.209(b), the owner or operator ~~must~~shall:
 - 1) Submit to the Agency an engineering feasibility plan for a corrective action program designed to achieve the requirements of ~~subsections~~subsection (e) through ~~(i)~~(j).
 - A) ~~The~~Such feasibility plan ~~must~~shall be submitted to the Agency within 180 days after the date of the sample in which a groundwater standard was initially exceeded.
 - B) ~~The~~This requirement under subsection (c) is waived if no groundwater standard is exceeded in any sample taken ~~under~~pursuant to subsection (b) for two consecutive quarters.
- d) Except as provided in subsection (c)(1)(B), the Agency ~~must~~shall provide a written response to the owner or operator based upon the engineering feasibility plan and any other relevant information that specifies either:

- 1) Concurrence with the feasibility plan for corrective action; or
 - 2) Non-concurrence with the feasibility plan for corrective action and a description of the inadequacies of ~~the~~such plan.
- e) An owner or operator who receives a written response of concurrence ~~under~~pursuant to subsection (d) ~~must~~shall provide periodic progress reports to the Agency regarding implementation~~the implementing~~ of the corrective action~~preventive response~~.
- f) An owner or operator who receives a written response of non-concurrence ~~under~~pursuant to subsection (d) ~~must~~shall have within 30 days after receiving the response~~to~~ correct the inadequacies and ~~to~~ resubmit the report to the Agency or ~~to~~ request a conference with the Agency. Within 30 days after receiving~~Upon receipt of~~ a written request for ~~such~~ a conference, the Agency ~~must~~shall schedule and hold the conference ~~within 30 days~~. Following ~~the~~a conference, the Agency ~~must~~shall provide the owner or operator with a final determination regarding the adequacy of the corrective action.
- g) An owner or operator ~~is~~shall be responsible for implementing adequate corrective action~~preventive response~~ as determined ~~under~~pursuant to this Section.
- h) Except as provided in subsection (c)(1)(B), the owner or operator ~~must~~shall:
- 1) Begin the corrective action program specified in the engineering feasibility plan ~~by~~no later than the date of receipt of concurrence from the Agency.
 - 2) Establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program.
 - 3) Take corrective action that results in compliance with the groundwater standards:
 - A) At all compliance points; and
 - B) Beyond the unit boundary, ~~if~~where necessary to protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner or operator is not relieved of any responsibility to clean up a release

that has migrated beyond the unit boundary where off-site access is denied.

- 4) Continue corrective action measures to the extent necessary to ensure that no groundwater standard is exceeded at the compliance point or points.
 - 5) The owner or operator may terminate corrective action measures taken beyond the compliance period as identified ~~in~~^{at} Section 616.202 if the owner or operator can demonstrate, based on data from the post-closure groundwater monitoring program under subsection (h)(2), that no groundwater standard has been exceeded for ~~a period of~~ three consecutive years.
 - 6) Report in writing to the Agency on the effectiveness of the corrective action program. The owner or operator ~~must~~^{shall} submit these reports semi-annually.
 - 7) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, the owner or operator ~~must~~^{shall}, within 90 days, make any appropriate changes to the program.
- i) Subsections (b), (c), and (f) do not apply if the owner or operator makes an alternative corrective action demonstration ~~under~~^{pursuant to} Section 616.211.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.211 Alternative Corrective Action Demonstration

If a corrective action program is required ~~under~~^{pursuant to} Section 616.210, it is presumed that contamination from the facility or unit that is being monitored is responsible for the groundwater standard being exceeded. An owner or operator may overcome that presumption by making a demonstration that a source other than the facility or unit that is being monitored caused the groundwater standard to be exceeded, or that the cause of the groundwater standard being exceeded is due to error in sampling, analysis or evaluation.

- a) In making ~~the~~^{such} demonstration, the owner or operator ~~must~~^{shall}:
 - 1) Notify the Agency that the owner or operator intends to make a demonstration under this Section when submitting the groundwater monitoring results ~~under~~^{pursuant to} Section 616.206; and
 - 2) Submit a report to the Agency that demonstrates that a source other than a facility or unit ~~owned or operated by~~^{for which he is} the owner or operator

caused the groundwater standard to be exceeded, or that the groundwater standard was exceeded due to an error in sampling, analysis or evaluation. ~~This~~ Such report must be included with the next submission of groundwater monitoring results required ~~under~~ pursuant to Section 616.206. ~~and~~

- b) The Agency ~~must~~ shall provide a written response to the owner or operator, based upon the written demonstration and any other relevant information, that specifies either:
 - 1) Concurrence with the written demonstration for alternative corrective action with requirements to continue to monitor in ~~compliance~~ accordance with the groundwater monitoring program established ~~under~~ pursuant to Sections 616.205 and 616.210; or
 - 2) Non-concurrence with the written demonstration for alternative corrective action and a description of the inadequacies of such demonstration.
- c) An owner or operator who receives a written response of non-concurrence ~~under~~ pursuant to subsection (b) ~~must, within (c) shall have~~ 30 days after receiving the response, ~~to so~~ respond to the Agency in writing or ~~to~~ request a conference with the Agency. Within 30 days after receiving ~~Upon receipt of~~ a written request for ~~such~~ a conference, the Agency ~~must~~ shall schedule and hold the conference ~~within 30 days~~. Following ~~the~~ a conference, the Agency ~~must~~ shall provide the owner or operator with a final determination regarding the adequacy of the alternative corrective action.
- d) The owner or operator ~~must~~ shall begin the corrective action program in ~~compliance~~ accordance with the requirements of Section 616.210 ~~(f)~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section 616.302 Closure Performance Standard

The owner or operator ~~must~~ shall close the unit in a manner that:

- a) Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of waste, waste constituents, leachate, contaminated runoff, or waste decomposition products to soils, groundwaters, surface waters, or the atmosphere;

- b) Minimizes the need for maintenance during and beyond the post-closure care period; and
 - c) Complies with the closure requirements of 35 Ill. Adm. Code: Subtitles C and G.
- (Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.303 Certification of Closure

Within 60 days after ~~the completion of~~ closure of each unit is completed, the owner or operator ~~must~~shall submit to the Agency, by registered or certified mail, a certification that the unit has been closed in compliance~~accordance~~ with the closure requirements. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.304 Survey Plat

- a) ~~Before~~No later than the submission of the certification of closure of each unit, the owner or operator must record with land titles and~~shall~~ submit to the Agency and any local zoning authority, or authority with jurisdiction over local land use, ~~and to the Agency, and record with land titles,~~ a survey plat indicating the location and dimensions of any waste disposal units, and any pesticide or fertilizer storage and handling units, with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a registered land surveyor.
- b) For pesticide storage and handling units or ~~for~~ fertilizer storage and handling units, records or reports required under any other State~~state~~ or federal~~Federal~~ regulatory program and which contain the information required under subsection (a) above may be used to satisfy that~~this~~ reporting requirement.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.305 Post-Closure Notice for Waste Disposal Units

~~Within~~No later than 60 days after certification of closure of the unit, the owner or operator of a unit subject to Subpart~~Subparts~~ D, E, or F must~~shall~~ submit to the Agency, ~~to~~ the County Recorder, ~~and to~~ any local zoning authority, or authority with jurisdiction over local land use, a record of the type, location and quantity of wastes disposed of within each cell or other area of the unit.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.306 Certification of Completion of Post-closure Care

~~Within~~~~No later than~~ 60 days after completion of the established post-closure care period, the owner or operator ~~must~~~~shall~~ submit to the Agency, by registered or certified mail, a certification that the post-closure care period for the unit was performed in ~~compliance~~~~accordance~~ with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART D: ON-SITE LANDFILLS

Section 616.401 Applicability

This Subpart applies to new landfill units which are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new landfill unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part ~~under~~~~pursuant to~~ Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.402 Prohibitions

- a) ~~Under~~~~Pursuant to~~ Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, a person must not~~no person shall~~ cause or allow the construction or operation of any landfill unit that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.
- b) A person must not~~No person shall~~ cause or allow the disposal of special waste in

a new on-site landfill unit within a regulated recharge area if the distance from the wellhead of the community water supply well to the landfill unit is 2500 feet or less, except as provided ~~in~~^{at} Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART E: ON-SITE LAND TREATMENT UNITS

Section 616.421 Applicability

This Subpart applies to new land treatment units that are located wholly or partially within a setback zone or regulated recharge area and that treat or dispose of special waste or other waste generated on-site, except that this Subpart does not apply to any new land treatment unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part ~~under~~^{pursuant to} Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.422 Prohibitions

- a) ~~Under~~^{Pursuant to} Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, a person must not~~no person shall~~ cause or allow the construction or operation of any land treatment unit that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.
- b) Nothing in this Section ~~prohibits, shall prohibit land treatment~~ within a maximum setback zone regulated by the Act, land treatment~~of sludge resulting from~~ the treatment of domestic wastewater or of sludge resulting from the treatment of water to produce potable water; if the land treatment is~~such activities are~~ conducted in compliance~~accordance~~ with the Act and 35 Ill. Adm. Code: Subtitle C.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.423 Groundwater Monitoring

The owner or operator ~~must~~~~shall~~ comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.424 Design and Operating Requirements

The owner or operator ~~must~~~~shall~~ design and operate the land treatment site in ~~compliance~~~~accordance~~ with 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.425 Closure and Post-Closure

The owner or operator ~~must~~~~shall~~ comply with the requirements of Subpart C.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section 616.441 Applicability

This Subpart applies to new surface impoundment units that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new surface impoundment unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part ~~under~~~~pursuant to~~ Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.442 Prohibitions

~~Under~~~~Pursuant to~~ Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, ~~a person must not~~~~no person shall~~ cause or allow the construction or operation of any surface impoundment unit that is:

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or

- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.443 Groundwater Monitoring

The owner or operator ~~must~~shall comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.444 Design Requirements

- a) The owner or operator of a surface impoundment ~~must~~shall install two or more liners and a leachate collection system between ~~the~~such liners. This requirement to install~~The requirement for the installation of~~ two or more liners ~~in this subsection~~ may be satisfied by installing~~the installation of~~ a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into ~~the~~such liner during the period ~~the~~such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated, and constructed of materials to prevent the migration of any constituent through ~~the~~such liner during ~~that~~such period. For ~~the purpose of~~ the preceding sentence, a lower liner ~~satisfies~~shall be deemed to satisfy ~~the~~such construction requirement if it is constructed of at least a 5-foot thick layer of recompacted clay or other natural material with a permeability of no more than $1 \times 10^{(-7)}$ centimeter per second.
- b) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.
- c) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the surface impoundment.
- d) The owner or operator ~~must~~shall maintain the following items:
- 1) Records describing the contents of the impoundment; and

- 2) A map showing the exact location and dimensions of the impoundment, including depth with respect to permanently surveyed benchmarks.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.445 Inspection Requirements

- a) During construction and installation, liners must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:
 - 1) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, and blisters; and
 - 2) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of that liner or cover.
- b) During operation, ~~While~~ a surface impoundment ~~is in operation~~, it must be inspected weekly and after storms to detect evidence of any of the following:
 - 1) Deterioration, malfunctions, or improper operation of overtopping control systems;
 - 2) Sudden drops in the level of the impoundment's contents;
 - 3) Severe erosion or other signs of deterioration in dikes or other containment devices; or
 - 4) A leaking dike.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.446 Operating Requirements

- a) A person must not ~~No person shall~~ cause or allow incompatible materials to be placed in the same surface impoundment unit.
- b) A surface impoundment unit must be removed from service in compliance ~~accordance~~ with subsection (c) when:
 - 1) The level of liquids in the unit suddenly drops and the drop is not known

to be caused by changes in the flows into or out of the unit; or

2) The dike leaks.

c) When a surface impoundment unit ~~is must be~~ removed from service as required by subsection (b), the owner or operator must~~shall~~:

1) Shut off the flow or stop the addition of wastes into the impoundment unit;

2) Contain any surface leakage that has occurred or is occurring;

3) Stop the leak;

4) Take any other necessary steps to stop or prevent catastrophic failure;

5) If a leak cannot be stopped by any other means, empty the impoundment unit; and

6) Notify the Agency of the removal from service and corrective actions that were taken, ~~such notice to be given~~ within 10 days after the removal from service.

d) A~~No~~ surface impoundment unit that has been removed from service in compliance~~accordance~~ with the requirements of this Section may be restored to service only if~~unless~~ the portion of the unit that failed has been repaired.

e) A surface impoundment unit that has been removed from service in compliance~~accordance~~ with the requirements of this Section and that is not being repaired must be closed in compliance~~accordance~~ with the provisions of Section 616.447.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.447 Closure and Post-Closure Care

a) If closure is to be by removal, the owner or operator must~~shall~~ remove all waste, all waste residues, contaminated containment system components (e.g., liners~~liners, etc.~~), contaminated subsoils and structures and equipment contaminated with waste and leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal site permitted by the Agency under the Act.

b) If closure is not to be by removal, the owner or operator must~~shall~~ comply with the requirements of Subpart C and must~~shall~~:

- 1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues.
- 2) Stabilize remaining wastes to a bearing capacity sufficient to support final cover.
- 3) Cover the surface impoundment unit with a final cover designed and constructed to:
 - A) Provide long-term minimization of the migration of liquids through the closed impoundment unit;
 - B) Function with minimum maintenance;
 - C) Promote drainage and minimize erosion or abrasion of the final cover;
 - D) Accommodate settling and subsidence so that the cover's integrity is maintained; and
 - E) Have a permeability less than or equal to the permeability of any bottom liner system.
- c) If some waste residues or contaminated materials are left in place at final closure, the owner or operator ~~must~~shall comply with the requirements of Subpart C ~~and shall~~ for ~~five~~a period of 5 years after closure and must:
 - 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;
 - 2) Maintain and monitor the groundwater monitoring system; and
 - 3) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART G: ON-SITE WASTE PILES

Section 616.461 Applicability

This Subpart applies to new waste piles that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new waste pile that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Consists of sludge resulting from the treatment of domestic wastewater from a POTW and the sludge pile is situated on an underdrained pavement and operated in compliance~~accordance~~ with the Act, 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G; or
- c) Is exempt from this Part under~~pursuant to~~ Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.462 Prohibitions

- a) Under~~Pursuant to~~ Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, a person must not~~no person shall~~ cause or allow the construction or operation of any waste pile that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.
- b) A person must not~~No person shall~~ cause or allow the disposal of special waste in a new waste pile within a regulated recharge area if the distance from the wellhead of the community water supply well to the waste pile is 2500 feet or less, except as provided in~~at~~ Section 616.105
- c) Nothing in this Section prohibits~~shall prohibit~~ a waste pile, within a maximum setback zone regulated by the Act, of sludge resulting from the treatment of domestic wastewater or of sludge resulting from the treatment of water to produce potable water, if such activities are conducted in compliance~~accordance~~ with the Act, 35 Ill. Adm. Code: Subtitle C, Subtitle~~Subtile~~ F, and Subtitle G.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.463 Design and Operating Requirements

- a) A person must not~~No person shall~~ cause or allow:
- 1) Disposal or storage in the waste pile of liquids or materials containing free liquids; or
 - 2) Migration and runoff of leachate into adjacent soil, surface water, or groundwater.
- b) A waste pile must comply with the following standards:
- 1) The waste pile must be under an impermeable membrane or cover that provides protection from precipitation;
 - 2) The waste pile must be protected from surface water run-on; and
 - 3) The waste pile must be designed and operated to control wind dispersal of waste by a means other than wetting.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.464 Closure

The owner or operator must complete~~shall accomplish~~ closure by removing and disposing of all wastes and containment system components (e.g., liners~~liners, etc~~). If disposed of in the State of Illinois, the waste and containment system components must be disposed of at a disposal site permitted by the Agency under the Act.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART H: UNDERGROUND STORAGE TANKS

Section 616.501 Applicability

This Subpart applies to new underground storage tanks that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste, except that this Subpart does not apply to any new underground storage tank that:

- a) Under~~Pursuant to~~ 35 Ill. Adm. Code 731.110(a) must meet the requirements ~~set forth~~ in 35 Ill. Adm. Code 731, unless such a tank is excluded from those requirements under~~pursuant to~~ 35 Ill. Adm. Code 731.110(b); ~~or~~
- b) Has~~Must have~~ interim status or a RCRA permit under 35 Ill. Adm. Code: Subtitle

G; or

- c) Is exempt from this Part ~~under~~pursuant to Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.502 Design and Operating Requirements

Owners and operators of new underground storage tanks that store special waste ~~must~~shall meet the requirements~~set forth~~ in 35 Ill. Adm. Code 731. ~~These~~Such requirements must be met even if the tanks are excluded from coverage under ~~35 Ill. Adm. Code 731 by~~ 35 Ill. Adm. Code 731.110(b). The exclusions~~set forth~~ in 35 Ill. Adm. Code 731.110(b) ~~do~~shall not apply to any underground storage tank that stores special waste.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

Section 616.601 Applicability

- a) This Subpart applies to any new unit for the storage and handling of pesticides that is located wholly or partially within a setback zone or regulated recharge area and that:
- 1) Is operated for ~~the purpose of~~ commercial application; or
 - 2) Stores or accumulates pesticides prior to distribution to retail sales outlets, including~~but not limited to~~ a unit that is a warehouse or bulk terminal.
- b) ~~Despite subsections~~Subsections (a)(1) and (a)(2)~~notwithstanding~~, this Subpart does not apply to any unit exempt ~~under~~pursuant to Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.602 Prohibitions

~~Under~~Pursuant to Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, ~~a person must not~~no person shall cause or allow the construction or operation of any unit for the storage and handling of pesticides that is:

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Section 616.104(a) and (b); or

- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.603 Groundwater Monitoring

The owner or operator ~~must~~shall comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.604 Design and Operating Requirements

The owner or operator ~~must~~shall:

- a) Maintain a written record inventorying all pesticides stored or handled at the unit.
- b) At least weekly when pesticides are being stored, inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator must immediately repair or replace the device. The owner or operator ~~must~~shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.
- c) Store all containers containing pesticides within a pesticide secondary containment structure, if ~~such~~ containers are stored outside of a roofed structure or enclosed warehouse. For ~~the purpose of~~ this subsection, a pesticide secondary containment structure is a structure that complies with the design standards ~~set forth~~ in 8 Ill. Adm. Code 255.
- d) Maintain all written records required under this Section at the site. The owner or operator ~~must~~shall provide the written records ~~any such record~~ to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.605 Closure and Post-Closure Care

The owner or operator ~~must~~shall comply with the requirements of Subpart C.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section 616.621 Applicability

This Subpart applies to any new unit for the storage and handling of fertilizers that is located wholly or partially within a setback zone or regulated recharge area and that:

- a) Is operated for ~~the purpose of~~ commercial application; or
- b) Stores or accumulates fertilizers prior to distribution to retail sales outlets, including ~~but not limited to~~ a unit that is a warehouse or bulk terminal.
- c) ~~Despite subsections~~Subsections (a) and (b)~~(1) and (2) notwithstanding~~, this Subpart ~~does~~shall not apply to any unit exempt ~~under~~pursuant to Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.622 Prohibitions

~~Under~~Pursuant to Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, ~~a person must not~~no person ~~shall~~ cause or allow the construction or operation of any unit for the storage and handling of fertilizers that is:

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or
- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.623 Groundwater Monitoring

The owner or operator ~~must~~shall comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.624 Design and Operating Requirements

The owner or operator ~~must~~shall:

- a) Maintain a written record inventorying all fertilizers stored or handled at the unit.
- b) At least weekly when fertilizers are being stored, inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator ~~must~~shall immediately repair or replace the device. The owner or operator ~~must~~shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.
- c) Store all containers containing fertilizers (except anhydrous ammonia) within a fertilizer secondary containment structure, if ~~the~~such containers are stored outside of a roofed structure or enclosed warehouse. For ~~the purpose of~~ this subsection, a fertilizer secondary containment structure is a structure that complies with the design standards ~~set forth~~ in 8 Ill. Adm. Code 255.
- d) Maintain all written records required under this Section at the site. The owner or operator ~~must~~shall provide ~~the written records~~any such record to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.625 Closure and Post-Closure Care

The owner or operator ~~must~~shall comply with the requirements of Subpart C.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

Section 616.702 Prohibitions

~~Under Pursuant to~~ Sections 14.2(a), 14.2(c), and 14.3(e) of the Act, ~~a person must not~~no person shall cause or allow the construction or operation of any unit for the storage and handling of road oils that is:

- a) Located wholly or partially within a minimum setback zone and that is either a

new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or

- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.703 Groundwater Monitoring

The owner or operator ~~must~~shall comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.704 Design and Operating Requirements for Above-Ground Storage Tanks

- a) The owner or operator of a tank ~~must~~shall not cause or allow:
 - 1) Materials to be placed in a tank if such materials could cause the tank to rupture, leak, corrode, or otherwise fail.
 - 2) Uncovered tanks to be placed or operated so as to maintain less than 60 centimeters (2 feet) of freeboard unless:
 - A) The tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank); and
 - B) ~~The~~Such containment structure, drainage control system, or diversion structure has a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.
 - 3) Material to be continuously fed into a tank, unless the tank is equipped with a means to stop this inflow (e.g., a feed cutoff system or a bypass system to a standby tank).
 - 4) Incompatible materials to be placed in the same tank.
 - 5) Material to be placed in a tank that previously held an incompatible material unless the incompatible material has been washed from the tank.
 - 6) Ignitable or reactive material to be placed in a tank unless:

- 1496 A) The material is stored or treated in such a way that it is protected
1497 from any material or conditions that may cause it to ignite or react;
1498 or
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- 1500 B) The tank is used solely for emergencies.
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- 1502 b) The owner or operator ~~must~~shall provide and maintain primary containment for
1503 the tank such that:
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- 1505 1) The tank has a minimum shell thickness that ensures that the tank will not
1506 fail (~~e.g., collapse, rupture~~i.e., collapse, rupture, etc.).
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- 1508 2) The tank is compatible with the material to be placed in the tank or the
1509 tank is lined with a substance that is compatible with the material to be
1510 placed in the tank.
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- 1512 c) The owner or operator ~~must~~shall provide and maintain secondary containment for
1513 the tank that:
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- 1515 1) Is capable of containing the volume of the largest tank or 10% of the total
1516 volume for all tanks, whichever is greater;
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- 1518 2) Is constructed of material capable of containing a spill until cleanup
1519 occurs (e.g., concrete or clay). The base of the secondary containment
1520 area must be capable of minimizing vertical migration of a spill until
1521 cleanup occurs (e.g., concrete or clay);
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- 1523 3) Has cover (e.g., crushed rock or vegetative growth) on earthen
1524 embankments sufficient to prevent erosion; and
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- 1526 4) Isolates the tank from storm water drains and from combined storm water
1527 drains and sanitary sewer drains.
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- 1529 d) If incompatible materials are handled at the site, secondary containment sufficient
1530 to isolate the units containing the incompatible materials must be provided.
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- 1532 e) The owner or operator of a tank ~~must~~shall also:
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- 1534 1) Test above-ground tanks and associated piping every five years for
1535 structural integrity.
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- 1537 2) Remove uncontaminated storm ~~water~~water runoff~~run-off~~ from the
1538 secondary containment area immediately after a precipitation event.

- 3) Handle contaminated storm water ~~run-off~~ runoff in compliance ~~accordance~~ with 35 Ill. Adm. Code 302.Subpart A.
- 4) Provide a method for obtaining a sample from each tank.
- 5) Install, maintain, and operate a material level indicator on each tank.
- 6) When not in use, lock all gauges and valves that are used to inspect levels in the tank. All such devices must be located within the containment structure.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

Section 616.722 Prohibitions

- a) ~~Under Pursuant to~~ Sections 14.2(a), 14.2(c), and ~~(14.3(e))~~ of the Act, a person must not ~~no person shall~~ cause or allow the construction or operation of any unit for the storage and handling of de-icing agents that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104 ~~(a) and (b)~~; or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104 ~~(b)~~.
- b) A person must not ~~No person shall~~ cause or allow the construction or operation within any setback zone of any outdoor facility for the storage and handling of de-icing agents, except as provided in ~~at~~ Section 616.105.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.723 Groundwater Monitoring

The owner or operator must ~~shall~~ comply with the requirements of Subpart B.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 616.724 Design and Operating Requirements for Indoor Storage Facilities

- a) The base of the facility must be constructed of materials capable of containing de-icing agents (i.e., bituminous or concrete pad).
- b) The roof and walls of the facility must be constructed of materials capable of protecting the storage pile from precipitation and capable of preventing dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater. The walls of the facility must be constructed of materials compatible with the de-icing agents to be placed in the facility. Run-off from the roof must be diverted away from the loading pad.
- c) The loading pad of the facility must be constructed of materials capable of containing a spill (i.e., concrete or bituminous pad). The borders of the loading pad must be curbed to prevent dry or dissolved de-icing agents from migrating from the loading pad into the adjacent soils, surface water, or groundwater. The loading pad must be covered by a roof of sufficient size to provide the pad and de-icing agents with protection from precipitation to prevent run-off or dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater.
- d) All areas surrounding the storage pile, including ~~but not limited to~~ the loading pad, must be routinely inspected to determine whether any release of de-icing agents has occurred. ~~These~~^{Such} areas ~~must~~^{shall} be cleaned as necessary. Spilled de-icing agents must be placed back under the protective covering of the indoor storage pile. The storage pile must be reshaped as often as necessary to prevent leaching.
- e) The integrity of the facility and loading pad must be maintained.
- f) All areas surrounding the storage facility must be inspected daily to determine whether any release of de-icing agents has occurred. Spilled de-icing agents must be placed back into the storage facility.

(Source: Amended at 47 Ill. Reg. _____, effective _____)